

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

KATHLEEN FURLONG
a.k.a. KATHLEEN MARIE FURLONG
3 Night Heron Lane
Aliso Viejo, CA 92656

Registered Nurse License No. 579745
Nurse Practitioner Certificate No. 12457
Nurse Practitioner Furnishing Certificate No. 12457

Respondent

Case No. 2012-382

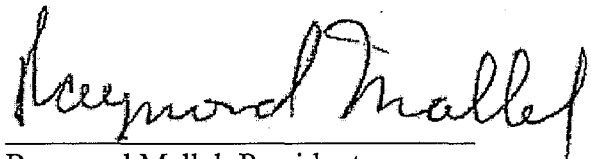
OAH No. 2012010373

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on **November 14, 2012.**

IT IS SO ORDERED **October 15, 2012.**



Raymond Mallel, President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
Attorney General of California
2 JAMES LEDAKIS
Supervising Deputy Attorney General
3 RON ESPINOZA
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Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

12 KATHLEEN FURLONG
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15 Registered Nurse License No. 579745
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17 Respondent.

Case No. 2012-382

OAH No. 2012010373

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

18
19 In the interest of a prompt and speedy settlement of this matter, consistent with the public
20 interest and the responsibility of the Board of Registered Nursing of the Department of Consumer
21 Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order
22 which will be submitted to the Board for approval and adoption as the final disposition of the
23 Accusation.

24 PARTIES

25 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Interim Executive Officer of the
26 Board of Registered Nursing. She brought this action solely in her official capacity and is
27 represented in this matter by Kamala D. Harris, Attorney General of the State of California, by
28 Ron Espinoza, Deputy Attorney General.

2. Kathleen Marie Furlong (Respondent) is represented in this proceeding by attorney Ronald Talmo, Esq., whose address is: 2415 N. Hesperian Street, Santa Ana, CA 92706.

3. On or about April 11, 2001, the Board of Registered Nursing issued Registered Nurse License No. 579745 to Respondent Kathleen Marie Furlong. The Registered Nurse License was in full force and effect at all times relevant to the charges brought in Accusation No. 2012-382 and will expire on January 31, 2013, unless renewed.

4. On or about June 12, 2001, the Board of Registered Nursing issued Nurse Practitioner Certificate No. 12457 to Respondent Kathleen Marie Furlong. The Nurse Practitioner Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 2012-382 and will expire on January 31, 2013, unless renewed.

5. On or about March 5, 2002, the Board of Registered Nursing issued Nurse Practitioner Furnishing Certificate No. 12457 to Respondent Kathleen Marie Furlong. The Nurse Practitioner Furnishing Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 2012-382 and will expire on January 13, 2013, unless renewed.

JURISDICTION

6. Accusation No. 2012-382 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on December 20, 2011. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 2012-382 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

7. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 2012-382. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

8. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine

1 the witnesses against her; the right to present evidence and to testify on her own behalf; the right
2 to the issuance of subpoenas to compel the attendance of witnesses and the production of
3 documents; the right to reconsideration and court review of an adverse decision; and all other
4 rights accorded by the California Administrative Procedure Act and other applicable laws.

5 9. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
6 every right set forth above.

7 CULPABILITY

8 10. Respondent admits the truth of each and every charge and allegation in Accusation
9 No. 2012-382.

10 11. Respondent agrees that her Registered Nurse License, Nurse Practitioner Certificate,
11 and Nurse Practitioner Furnishing Certificate are subject to discipline, and she agrees to be bound
12 by the Board's probationary terms as set forth in the Disciplinary Order below.

13 CONTINGENCY

14 12. This stipulation shall be subject to approval by the Board of Registered Nursing.
15 Respondent understands and agrees that counsel for Complainant and the staff of the Board of
16 Registered Nursing may communicate directly with the Board regarding this stipulation and
17 settlement, without notice to or participation by Respondent or her counsel. By signing the
18 stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek
19 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
20 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
21 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
22 action between the parties, and the Board shall not be disqualified from further action by having
23 considered this matter.

24 13. The parties understand and agree that copies of this Stipulated Settlement and
25 Disciplinary Order, including the signatures thereto, shall have the same force and effect as the
26 originals.

27 14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
28 integrated writing representing the complete, final, and exclusive embodiment of their agreement.

1 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
2 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
3 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
4 writing executed by an authorized representative of each of the parties.

5 15. In consideration of the foregoing admissions and stipulations, the parties agree that
6 the Board may, without further notice or formal proceeding, issue and enter the following
7 Disciplinary Order:

8 **DISCIPLINARY ORDER**

9 **IT IS HEREBY ORDERED** that Registered Nurse License No. 579745, Nurse
10 Practitioner Certificate No. 12457, and Nurse Practitioner Furnishing Certificate No. 12457
11 issued to Respondent Kathleen Marie Furlong are revoked. However, the revocations are stayed
12 and Respondent is placed on probation for five (5) years on the following terms and conditions.

13 **Severability Clause.** Each condition of probation contained herein is a separate and
14 distinct condition. If any condition of this Order, or any application thereof, is declared
15 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other
16 applications thereof, shall not be affected. Each condition of this Order shall separately be valid
17 and enforceable to the fullest extent permitted by law.

18 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws. A full and
19 detailed account of any and all violations of law shall be reported by Respondent to the Board in
20 writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with
21 this condition, Respondent shall submit completed fingerprint forms and fingerprint fees within
22 45 days of the effective date of the decision, unless previously submitted as part of the licensure
23 application process.

24 **Criminal Court Orders:** If Respondent is under criminal court orders, including
25 probation or parole, and the order is violated, this shall be deemed a violation of these probation
26 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

27 2. **Comply with the Board's Probation Program.** Respondent shall fully comply with
28 the conditions of the Probation Program established by the Board and cooperate with

1 representatives of the Board in its monitoring and investigation of the Respondent's compliance
2 with the Board's Probation Program. Respondent shall inform the Board in writing within no
3 more than 15 days of any address change and shall at all times maintain an active, current license
4 status with the Board, including during any period of suspension.

5 Upon successful completion of probation, Respondent's licenses shall be fully restored.

6 3. **Report in Person.** Respondent, during the period of probation, shall appear in
7 person at interviews/meetings as directed by the Board or its designated representatives.

8 4. **Residency, Practice, or Licensure Outside of State.** Periods of residency or
9 practice as a registered nurse outside of California shall not apply toward a reduction of this
10 probation time period. Respondent's probation is tolled, if and when she resides outside of
11 California. Respondent must provide written notice to the Board within 15 days of any change of
12 residency or practice outside the state, and within 30 days prior to re-establishing residency or
13 returning to practice in this state.

14 Respondent shall provide a list of all states and territories where she has ever been licensed
15 as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide
16 information regarding the status of each license and any changes in such license status during the
17 term of probation. Respondent shall inform the Board if she applies for or obtains a new nursing
18 license during the term of probation.

19 5. **Submit Written Reports.** Respondent, during the period of probation, shall submit
20 or cause to be submitted such written reports/declarations and verification of actions under
21 penalty of perjury, as required by the Board. These reports/declarations shall contain statements
22 relative to Respondent's compliance with all the conditions of the Board's Probation Program.
23 Respondent shall immediately execute all release of information forms as may be required by the
24 Board or its representatives.

25 Respondent shall provide a copy of this Decision to the nursing regulatory agency in every
26 state and territory in which she has a registered nurse license.

27 6. **Function as a Registered Nurse.** Respondent, during the period of probation, shall
28 engage in the practice of registered nursing in California for a minimum of 24 hours per week for

1 6 consecutive months or as determined by the Board.

2 For purposes of compliance with the section, "engage in the practice of registered nursing"
3 may include, when approved by the Board, volunteer work as a registered nurse, or work in any
4 non-direct patient care position that requires licensure as a registered nurse.

5 The Board may require that advanced practice nurses engage in advanced practice nursing
6 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

7 If Respondent has not complied with this condition during the probationary term, and
8 Respondent has presented sufficient documentation of her good faith efforts to comply with this
9 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
10 extension of Respondent's probation period up to one year without further hearing in order to
11 comply with this condition. During the one year extension, all original conditions of probation
12 shall apply.

13 **7. Employment Approval and Reporting Requirements.** Respondent shall obtain
14 prior approval from the Board before commencing or continuing any employment, paid or
15 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
16 performance evaluations and other employment related reports as a registered nurse upon request
17 of the Board.

18 Respondent shall provide a copy of this Decision to her employer and immediate
19 supervisors prior to commencement of any nursing or other health care related employment.

20 In addition to the above, Respondent shall notify the Board in writing within seventy-two
21 (72) hours after she obtains any nursing or other health care related employment. Respondent
22 shall notify the Board in writing within seventy-two (72) hours after she is terminated or
23 separated, regardless of cause, from any nursing, or other health care related employment with a
24 full explanation of the circumstances surrounding the termination or separation.

25 **8. Supervision.** Respondent shall obtain prior approval from the Board regarding
26 Respondent's level of supervision and/or collaboration before commencing or continuing any
27 employment as a registered nurse, or education and training that includes patient care.

28 ///

Respondent shall practice only under the direct supervision of a registered nurse in good standing (no current discipline) with the Board of Registered Nursing, unless alternative methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are approved.

Respondent's level of supervision and/or collaboration may include, but is not limited to the following:

(a) Maximum - The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.

(b) Moderate - The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours Respondent works.

(c) Minimum - The individual providing supervision and/or collaboration has person-to-person communication with Respondent at least twice during each shift worked.

(d) Home Health Care - If Respondent is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with Respondent as required by the Board each work day. Respondent shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the Board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by Respondent with or without Respondent present.

9. Employment Limitations. Respondent shall not work for a nurse's registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse, or for an in-house nursing pool.

Respondent shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Respondent shall not work in any other registered nursing occupation where home visits are required.

Respondent shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict Respondent from supervising licensed vocational nurses

1 and/or unlicensed assistive personnel on a case-by-case basis.

2 Respondent shall not work as a faculty member in an approved school of nursing or as an
3 instructor in a Board approved continuing education program.

4 Respondent shall work only on a regularly assigned, identified and predetermined
5 worksite(s) and shall not work in a float capacity.

6 If Respondent is working or intends to work in excess of 40 hours per week, the Board may
7 request documentation to determine whether there should be restrictions on the hours of work.

8 10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall enroll and
9 successfully complete a course(s) relevant to the practice of registered nursing no later than six
10 months prior to the end of her probationary term.

11 Respondent shall obtain prior approval from the Board before enrolling in the course(s).
12 Respondent shall submit to the Board the original transcripts or certificates of completion for the
13 above required course(s). The Board shall return the original documents to Respondent after
14 photocopying them for its records.

15 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with its
16 investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
17 amount of \$2,127.50. Respondent shall be permitted to pay these costs in a payment plan
18 approved by the Board, with payments to be completed no later than three months prior to the end
19 of the probation term.

20 If Respondent has not complied with this condition during the probationary term, and
21 Respondent has presented sufficient documentation of her good faith efforts to comply with this
22 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
23 extension of Respondent's probation period up to one year without further hearing in order to
24 comply with this condition. During the one year extension, all original conditions of probation
25 will apply.

26 12. **Violation of Probation.** If Respondent violates the conditions of her probation, the
27 Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order
28 and impose the stayed discipline (revocation) of Respondent's licenses.

1 If during the period of probation, an accusation or petition to revoke probation has been
2 filed against Respondent's license(s) or the Attorney General's Office has been requested to
3 prepare an accusation or petition to revoke probation against Respondent's license(s), the
4 probationary period shall automatically be extended and shall not expire until the accusation or
5 petition has been acted upon by the Board.

6 13. **License Surrender.** During Respondent's term of probation, if she ceases practicing
7 due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation,
8 Respondent may surrender her licenses to the Board. The Board reserves the right to evaluate
9 Respondent's request and to exercise its discretion whether to grant the request, or to take any
10 other action deemed appropriate and reasonable under the circumstances, without further hearing.
11 Upon formal acceptance of the tendered licenses and wall certificate, Respondent will no longer
12 be subject to the conditions of probation.

13 Surrender of Respondent's licenses shall be considered a disciplinary action and shall
14 become a part of Respondent's license history with the Board. A registered nurse whose license
15 has been surrendered may petition the Board for reinstatement no sooner than the following
16 minimum periods from the effective date of the disciplinary decision:

- 17 (1) Two years for reinstatement of a license that was surrendered for any reason other
18 than a mental or physical illness; or
19 (2) One year for a license surrendered for a mental or physical illness.

20 14. **Physical Examination.** Within 45 days of the effective date of this Decision,
21 Respondent, at her expense, shall have a licensed physician, nurse practitioner, or physician
22 assistant, who is approved by the Board before the assessment is performed, submit an
23 assessment of the Respondent's physical condition and capability to perform the duties of a
24 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If
25 medically determined, a recommended treatment program will be instituted and followed by the
26 Respondent with the physician, nurse practitioner, or physician assistant providing written reports
27 to the Board on forms provided by the Board.

28 ///

1 If Respondent is determined to be unable to practice safely as a registered nurse, the
2 licensed physician, nurse practitioner, or physician assistant making this determination shall
3 immediately notify the Board and Respondent by telephone, and the Board shall request that the
4 Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall
5 immediately cease practice and shall not resume practice until notified by the Board. During this
6 period of suspension, Respondent shall not engage in any practice for which a license issued by
7 the Board is required until the Board has notified Respondent that a medical determination
8 permits Respondent to resume practice. This period of suspension will not apply to the reduction
9 of this probationary time period.

10 If Respondent fails to have the above assessment submitted to the Board within the 45-day
11 requirement, Respondent shall immediately cease practice and shall not resume practice until
12 notified by the Board. This period of suspension will not apply to the reduction of this
13 probationary time period. The Board may waive or postpone this suspension only if significant,
14 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
15 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
16 Only one such waiver or extension may be permitted.

17 **15. Participate in Treatment/Rehabilitation Program for Chemical Dependence.**

18 Respondent, at her expense, shall successfully complete during the probationary period or shall
19 have successfully completed prior to commencement of probation a Board-approved
20 treatment/rehabilitation program of at least six months duration. As required, reports shall be
21 submitted by the program on forms provided by the Board. If Respondent has not completed a
22 Board-approved treatment/rehabilitation program prior to commencement of probation,
23 Respondent, within 45 days from the effective date of the decision, shall be enrolled in a program.
24 If a program is not successfully completed within the first nine months of probation, the Board
25 shall consider Respondent in violation of probation.

26 Based on Board recommendation, each week Respondent shall be required to attend at least
27 one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous,
28 Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the Board.

1 If a nurse support group is not available, an additional 12-step meeting or equivalent shall be
2 added. Respondent shall submit dated and signed documentation confirming such attendance to
3 the Board during the entire period of probation. Respondent shall continue with the recovery plan
4 recommended by the treatment/rehabilitation program or a licensed mental health examiner
5 and/or other ongoing recovery groups.

6 **16. Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent shall
7 completely abstain from the possession, injection or consumption by any route of all controlled
8 substances and all psychotropic (mood altering) drugs, including alcohol, except when the same
9 are ordered by a health care professional legally authorized to do so as part of documented
10 medical treatment. Respondent shall have sent to the Board, in writing and within fourteen (14)
11 days, by the prescribing health professional, a report identifying the medication, dosage, the date
12 the medication was prescribed, the Respondent's prognosis, the date the medication will no
13 longer be required, and the effect on the recovery plan, if appropriate.

14 Respondent shall identify for the Board a single physician, nurse practitioner or physician
15 assistant who shall be aware of Respondent's history of substance abuse and will coordinate and
16 monitor any prescriptions for Respondent for dangerous drugs, controlled substances or mood-
17 altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report
18 to the Board on a quarterly basis Respondent's compliance with this condition. If any substances
19 considered addictive have been prescribed, the report shall identify a program for the time limited
20 use of any such substances.

21 The Board may require the single coordinating physician, nurse practitioner, or physician
22 assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive
23 medicine.

24 **17. Submit to Tests and Samples.** Respondent, at her expense, shall participate in a
25 random, biological fluid testing or a drug screening program which the Board approves. The
26 length of time and frequency will be subject to approval by the Board. Respondent is responsible
27 for keeping the Board informed of Respondent's current telephone number at all times.
28 Respondent shall also ensure that messages may be left at the telephone number when she is not

1 available and ensure that reports are submitted directly by the testing agency to the Board, as
2 directed. Any confirmed positive finding shall be reported immediately to the Board by the
3 program and Respondent shall be considered in violation of probation.

4 In addition, Respondent, at any time during the period of probation, shall fully cooperate
5 with the Board or any of its representatives, and shall, when requested, submit to such tests and
6 samples as the Board or its representatives may require for the detection of alcohol, narcotics,
7 hypnotics, dangerous drugs, or other controlled substances.

8 If Respondent has a positive drug screen for any substance not legally authorized and not
9 reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board
10 files a petition to revoke probation or an accusation, the Board may suspend Respondent from
11 practice pending the final decision on the petition to revoke probation or the accusation. This
12 period of suspension will not apply to the reduction of this probationary time period.

13 If Respondent fails to participate in a random, biological fluid testing or drug screening
14 program within the specified time frame, Respondent shall immediately cease practice and shall
15 not resume practice until notified by the Board. After taking into account documented evidence
16 of mitigation, if the Board files a petition to revoke probation or an accusation, the Board may
17 suspend Respondent from practice pending the final decision on the petition to revoke probation
18 or the accusation. This period of suspension will not apply to the reduction of this probationary
19 time period.

20 18. **Mental Health Examination.** Respondent shall, within 45 days of the effective date
21 of this Decision, have a mental health examination including psychological testing as appropriate
22 to determine her capability to perform the duties of a registered nurse. The examination will be
23 performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by
24 the Board. The examining mental health practitioner will submit a written report of that
25 assessment and recommendations to the Board. All costs are the responsibility of Respondent.
26 Recommendations for treatment, therapy or counseling made as a result of the mental health
27 examination will be instituted and followed by Respondent.

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1 If Respondent is determined to be unable to practice safely as a registered nurse, the
2 licensed mental health care practitioner making this determination shall immediately notify the
3 Board and Respondent by telephone, and the Board shall request that the Attorney General's
4 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
5 practice and may not resume practice until notified by the Board. During this period of
6 suspension, Respondent shall not engage in any practice for which a license issued by the Board
7 is required, until the Board has notified Respondent that a mental health determination permits
8 Respondent to resume practice. This period of suspension will not apply to the reduction of this
9 probationary time period.

10 If Respondent fails to have the above assessment submitted to the Board within the 45-day
11 requirement, Respondent shall immediately cease practice and shall not resume practice until
12 notified by the Board. This period of suspension will not apply to the reduction of this
13 probationary time period. The Board may waive or postpone this suspension only if significant,
14 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
15 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
16 Only one such waiver or extension may be permitted.

17 **19. Therapy or Counseling Program.** Respondent, at her expense, shall participate in
18 an on-going counseling program until such time as the Board releases her from this requirement
19 and only upon the recommendation of the counselor. Written progress reports from the counselor
20 will be required at various intervals.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Ronald Talmo, Esq. I understand the stipulation and the effect it will have on my Registered Nurse License, Nurse Practitioner Certificate, and Nurse Practitioner Furnishing Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED: 6-13-12

Kathleen M. Furlong
KATHLEEN MARIE FURLONG
Respondent

I have read and fully discussed with Respondent Kathleen Marie Furlong the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 6/13/12

Ronald Talmo
RONALD TALMO, ESQ.
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

Dated: 6/14/12

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JAMES LEDAKIS
Supervising Deputy Attorney General

Ron Espinoza
RON ESPINOZA
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 2012-382

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Attorney General of California
2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 LINDA K. SCHNEIDER
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Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. **2012 - 382**

12 **KATHLEEN FURLONG**
13 **aka KATHLEEN MARIE FURLONG**
3 Night Heron Lane
14 **Aliso Viejo, CA 92656**

A C C U S A T I O N

15 **Registered Nurse License No. 579745**
16 **Nurse Practitioner Certificate No. 12457**
Nurse Practitioner Furnishing Certificate No. 12457

Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about April 11, 2001, the Board of Registered Nursing issued Registered Nurse
24 License Number 579745 to Kathleen Furlong (Respondent). The Registered Nurse License was
25 in full force and effect at all times relevant to the charges brought herein and will expire on
26 January 31, 2013, unless renewed.

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1
2 9. Section 2762 of the Code states:

3 In addition to other acts constituting unprofessional conduct within the
4 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a
5 person licensed under this chapter to do any of the following:

6 (a) Obtain or possess in violation of law, or prescribe, or except as directed by
7 a licensed physician and surgeon, dentist, or podiatrist administer to himself or
8 herself, or furnish or administer to another, any controlled substance as defined in
9 Division 10 (commencing with Section 11000) of the Health and Safety Code or any
10 dangerous drug or dangerous device as defined in Section 4022.

11 (b) Use any controlled substance as defined in Division 10 (commencing with
12 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous
13 device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner
14 dangerous or injurious to himself or herself, any other person, or the public or to the
15 extent that such use impairs his or her ability to conduct with safety to the public the
16 practice authorized by his or her license.

17 (c) Be convicted of a criminal offense involving the prescription,
18 consumption, or self-administration of any of the substances described in
19 subdivisions (a) and (b) of this section, or the possession of, or falsification of a
20 record pertaining to, the substances described in subdivision (a) of this section, in
21 which event the record of the conviction is conclusive evidence thereof.

22
23 10. Section 490 of the Code provides, in pertinent part, that a board may suspend
24 or revoke a license on the ground that the licensee has been convicted of a crime
25 substantially related to the qualifications, functions, or duties of the business or
26 profession for which the license was issued.

27 11. Section 493 of the Code states:

28 Notwithstanding any other provision of law, in a proceeding conducted by a
board within the department pursuant to law to deny an application for a license or to
suspend or revoke a license or otherwise take disciplinary action against a person
who holds a license, upon the ground that the applicant or the licensee has been
convicted of a crime substantially related to the qualifications, functions, and duties
of the licensee in question, the record of conviction of the crime shall be conclusive
evidence of the fact that the conviction occurred, but only of that fact, and the board
may inquire into the circumstances surrounding the commission of the crime in order
to fix the degree of discipline or to determine if the conviction is substantially related
to the qualifications, functions, and duties of the licensee in question.

As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and
'registration.'

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REGULATORY PROVISIONS

12. California Code of Regulations, title 16, section 1444, states:

A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.

(b) Failure to comply with any mandatory reporting requirements.

(c) Theft, dishonesty, fraud, or deceit.

(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code.

13. California Code of Regulations, title 16, section 1445 states:

....

(b) When considering the suspension or revocation of a license on the grounds that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his/her eligibility for a license will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

(6) Evidence, if any, of rehabilitation submitted by the licensee.

COST RECOVERY

14. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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FIRST CAUSE FOR DISCIPLINE

(February 3, 2005 Criminal Conviction for DUI on September 12, 2004)

15. Respondent has subjected her registered nurse license and certificates to disciplinary action under sections 490 and 2761, subdivision (f) of the Code in that she was convicted of crimes that are substantially related to the qualifications, functions, and duties of a registered nurse. The circumstances are as follows:

a. On or about February 3, 2005, in a criminal proceeding entitled *The People of the State of California v. Kathleen Marie Furlong*, in Orange County Superior Court, case number 04HM08016, Respondent was convicted on her plea of guilty of violating Vehicle Code section 23152, subdivision (b), driving with a blood alcohol concentration (BAC) of 0.08% or more, a misdemeanor. A second count for driving under the influence of alcohol in violation of Vehicle Code section 23152, subdivision (a) was dismissed.

b. As a result of the conviction, on or about February 03, 2005, Respondent was sentenced to three years informal probation. Respondent was further ordered to attend and complete 3 month Level 1 First Offender Alcohol Program, Mothers Against Drunk Driving (MADD) Victim's Impact Panel, pay \$1,397.50 in fees, fines, and restitution, and comply with the terms of standard DUI probation.

c. The facts that led to the conviction are that in or about the early morning of September 12, 2004, an officer saw a green 1997 Toyota Camry that was stopped for a red light in the number 1 lane of northbound Fortune Drive in the City of Irvine, California. When the left turn light turned green, the car's left turn signal turned on as though the driver intended to make a left turn. Instead of making the left turn, which would have been prohibited based upon where the vehicle was located, the driver proceeded forward into the intersection and stopped, while the light was still red. When the light turned green, the driver drove the vehicle straight on Fortune Drive towards a sobriety checkpoint at Fortune Drive and Enterprise. The driver was waved through the checkpoint and turned left to go East on Enterprise. An officer activated his red light for the driver to stop, but the vehicle failed to stop and instead continued northbound onto Alton

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1 Parkway. The officer then activated the overhead red and blue emergency lights in order to
2 conduct an enforcement stop. The driver still failed to yield and instead continued 50 feet
3 forward on Alton Parkway. The officer used his bullhorn to tell the driver to stop and the driver,
4 later identified as Respondent, finally came to a stop on Alton Parkway south of Technology
5 Drive. The officer observed she was exhibiting symptoms consistent of being under the
6 influence. Another officer evaluated Respondent for DUI. When asked how much she had to
7 drink, Respondent admitted that she had been drinking Chardonnay at the Crazy Horse bar. The
8 officer observed a moderate odor of alcohol coming from Respondent's breath and that she had
9 bloodshot watery eyes with nystagmus at maximum deviation, slurred speech, a droopy face, an
10 unsteady gait and staggering walk. Respondent failed the field sobriety tests. Respondent's
11 breath test showed her BAC as .15 percent. Respondent was placed under arrest for driving under
12 the influence.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(June 29, 2011 Criminal Convictions for DUI on January 30, 2011)**

15 16. Respondent has subjected her registered nurse license and certificates to disciplinary
16 action under sections 490 and 2761, subdivision (f) of the Code in that she was convicted of
17 crimes that are substantially related to the qualifications, functions, and duties of a registered
18 nurse. The circumstances are as follows:

19 a. On or about June 29, 2011, in a criminal proceeding entitled *The People of the*
20 *State of California v. Kathleen Marie Furlong, aka Kathleen M. Furlong*, in Orange County
21 Superior Court, case number 11HM08047, Respondent was convicted on her plea of guilty of
22 violating Vehicle Code section 23152, subdivision (a), driving under the influence of alcohol; and
23 Vehicle Code section 23152, subdivision (b), driving with a blood alcohol concentration (BAC)
24 of 0.08% or more, misdemeanors. Respondent admitted and the court found true the allegation
25 that Respondent's BAC was .20% or more, a sentencing enhancement pursuant to Vehicle Code
26 section 23538, subdivision (b).

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1 b. As a result of the convictions, on or about June 29, 2011, Respondent was
2 sentenced to five years informal probation and ordered to serve 15 days in Orange County Jail
3 with credit for time served of 2 actual days and perform work for 13 days with Cal Trans in lieu
4 of 13 days jail. Respondent was further ordered to attend and complete an 18 month Multiple
5 Offender Alcohol Program, a Mothers against Drunk Driving (MADD) Victim's Impact Panel, a
6 6 month intensive outpatient program through Alcoholics Anonymous, pay \$1,996.00 in fees,
7 fines, and restitution, and comply with the terms of standard DUI probation.

8 c. The facts that led to the conviction are that after midnight on January 30, 2011,
9 a motorist reported that they had almost collided with a black Volvo SUV because the driver of
10 the Volvo made a sudden left turn, failing to yield to the on-coming car on Coast Highway in
11 Laguna Beach. The reporting party followed the Volvo to a parking stall in Cliff Drive, parked
12 beside it making sure the driver would not leave, and called the police. A Laguna Beach police
13 officer arrived and contacted Respondent, who was the driver of the Volvo and was alone inside
14 the vehicle. When Respondent opened the driver's door, the officer immediately smelled alcohol
15 emitting from the vehicle's interior. When asked if she had consumed alcohol that day,
16 Respondent claimed she had not. During the DUI investigation, Respondent had Horizontal Gaze
17 Nystagmus at maximum deviation and failed the field sobriety tests. Respondent was thereafter
18 arrested. At the Laguna Beach Police Station, Respondent's first breath test at 1:49 p.m.
19 registered a BAC of .32%, while the second breath test at 1: 52 p.m. registered at .30%.

20 **THIRD CAUSE FOR DISCIPLINE**

21 **(Unprofessional Conduct - Use of Alcohol in a Dangerous Manner)**

22 17. Respondent has subjected her registered nurse license and certificates to disciplinary
23 action under section 2762, subdivision (b) of the Code, in that on or about September 12, 2004
24 and January 30, 2011, as described in paragraph 15 and 16, above, Respondent used alcoholic
25 beverages to an extent or in a manner that was potentially dangerous and injurious to herself, and
26 to others when she operated a motor vehicle while impaired with a significantly high blood
27 alcohol concentration.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct - Conviction of Alcohol-Related Criminal Offenses)**

3 18. Respondent has subjected her registered nurse license and certificates to disciplinary
4 action under section 2762, subdivision (c) of the Code in that on or about February 3, 2005 and
5 June 29, 2011, as described in paragraph 15 and 16, above, Respondent was convicted of criminal
6 offenses involving the consumption and/or self-administration of alcohol.

7 **PRAYER**

8 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
9 and that following the hearing, the Board of Registered Nursing issue a decision:

10 1. Revoking or suspending Registered Nurse License Number 579745, issued to
11 Kathleen Furlong;

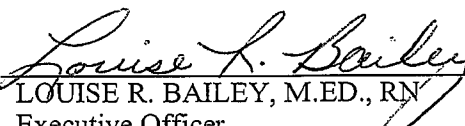
12 2. Revoking or suspending Nurse Practitioner Certificate Number 12457, issued to
13 Kathleen Furlong;

14 3. Revoking or suspending Nurse Practitioner Furnishing Certificate Number 12457,
15 issued to Kathleen Furlong;

16 4. Ordering Kathleen Furlong to pay the Board of Registered Nursing the reasonable
17 costs of the investigation and enforcement of this case, pursuant to Business and Professions
18 Code section 125.3;

19 5. Taking such other and further action as deemed necessary and proper.
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23 DATED: December 20, 2011


LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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